

**JUDICIAL COUNCIL OF THE SIXTH CIRCUIT**  
**MICHIGAN-OHIO-KENTUCKY-TENNESSEE**

In re:  
Complaint of Judicial Misconduct

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\*No. 06-16-90114  
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**MEMORANDUM AND ORDER**

This complaint of judicial misconduct was filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]** (“subject judge”), pursuant to 28 U.S.C. § 351. The complaint alleges that the subject judge improperly authorized the employment of an out-of-state auctioneer to liquidate certain property of the bankruptcy estate. The complaint speculates that the trustee and the subject judge received kickbacks for the employment of this auctioneer.

After conducting an initial review, the chief judge may dismiss a misconduct complaint as to which he concludes: (A) that the claimed conduct, even if it occurred, “is not prejudicial to the effective and expeditious administration of the business of the courts”; (B) that the complaint “is directly related to the merits of a decision or procedural ruling”; (C) that the complaint is “frivolous,” a term that applies to charges that are wholly unsupported; or (D) that the complaint “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings; see 28 U.S.C. § 352(a), (b).

An initial review of the record reveals that the complainant is the debtor in a bankruptcy proceeding that is assigned to the subject judge. The bankruptcy trustee filed an application to employ a certain auctioneer, located in a neighboring state, to auction two motorcycles and an automobile that were part of the bankruptcy estate. The subject judge granted the application.

This judicial-misconduct complaint is subject to dismissal under Rule 11(c)(1)(B) because it is directly related to the merits of the subject judge’s order authorizing employment of the auctioneer. See *also* 28 U.S.C. § 352(b)(1)(A)(ii). Any challenge to the merits of a judge’s order is outside the scope of judicial-misconduct proceedings. See Rule 3(h)(3)(A), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The Judicial Council is not a court and has no jurisdiction to review any decision by a

judge. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331, 331-32 (6th Cir. 1988).

To the extent that it alleges that the subject judge received a kickback, the complaint is subject to dismissal under Rule 11(c)(1)(C) as wholly unsupported by the record. See also 28 U.S.C. § 352(b)(1)(A)(iii).

Accordingly, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) and Rule 11(c)(1)(B) & (C) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

*/s/ R. Guy Cole, Jr.*  
Chief Judge

Date: July 5, 2017